



National Aeronautics and
Space Administration

Principal Center for Regulatory Risk Analysis and Communication

REGULATORY ALERT

NSR Program for PM_{2.5}

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Date [Citation]: 11 February 2010 [75 FR 6827]

Regulatory Agency: U.S. Environmental Protection Agency

Rulemaking Type: Proposed Rule

Title: Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM₁₀ Surrogate Policy

Summary:

On 11 February 2010, the U.S. Environmental Protection Agency (EPA) proposed two actions, described below, to end EPA's 1997 policy that allows sources and permitting authorities to use a demonstration of compliance with the prevention of significant deterioration (PSD) requirements for particulate matter less than 10 micrometers (PM₁₀) as a surrogate for meeting the PSD requirements for particulate matter less than 2.5 micrometers (PM_{2.5}). Comments regarding the proposed rule are due to EPA by 15 March 2010.

Surrogacy

After EPA promulgated the NAAQS for PM_{2.5} in 1997 (62 FR 38652), it issued a guidance designed to help states implement the requirements for PSD based on the new PM_{2.5} standard due to technical difficulties that arose. The guidance indicated that sources are allowed to use implementation of a PM₁₀ program as a surrogate for compliance with the PM_{2.5} NSR requirements until resolution of technical difficulties with the PM_{2.5} standard. The technical issues included the lack of emission calculation tools, modeling techniques, and monitoring sites. The continued use of the PM₁₀ Surrogate Policy was a transition measure for revising State Implementation Plans (SIPs). In the proposal, EPA is seeking comments regarding several questions, including whether the technical issues that gave rise to the PM₁₀ Surrogate Policy in 1997 are sufficiently resolved that the policy is no longer needed either for federal or state permitting actions. EPA is also requesting comments about whether SIP-approved states should be considered "unable to implement a PSD program for the PM_{2.5} NAAQS" because they lack the legal authority to implement the PSD program for PM_{2.5} based on the absence of a significant emissions rate for PM_{2.5} or other factors.

Grandfathering

New and modified major stationary sources applying for permits under the federal PSD program after the 15 July 2008 effective date of the May 2008 final rule (73 FR 28321) are required to directly satisfy the requirements of PM_{2.5} rather than to rely on the PM₁₀ Surrogate Policy to satisfy those requirements. However, until EPA recently stayed the provision for 3 months, the grandfathering provision contained in the federal PSD program at 40 CFR 52.21(i)(l)(xi) allowed sources that had not yet received final and effective permits, but had submitted a complete PSD permit application before the effective date of the final rule for PM_{2.5}, to continue having their applications reviewed on the basis of the PM₁₀ Surrogate Policy. At the time the grandfathering provisions for PM_{2.5} were put into effect, EPA estimated that fewer than 20 proposed new or modified major stationary sources were covered. EPA is soliciting comments regarding the concept of allowing certain sources covered by the federal PSD program to continue to use the PM₁₀ Surrogate Policy.

Potential Impacts to NASA:

NASA Centers and contractor facilities potentially affected by the proposed repeal of the grandfathering provision include any proposed new and modified major sources subject to:

- The federal PSD program that submitted a complete application for a PSD permit by 15 July 2008, but have not yet received a final and effective permit authorizing the source to commence construction, and those proposed new and modified major stationary sources.
- A PSD program in SIP-approved states that have not yet received a final and effective permit authorizing the source to commence construction.
- A PSD program in SIP-approved states that do not have the legal authority to regulate PM_{2.5}.

NASA Centers and contractor facilities potentially affected by the proposed repeal of the PM₁₀ Surrogate Policy are any new and modified major sources located in SIP-approved states. If finalized, facilities would be required to comply directly with the PM_{2.5} standard, to use PM_{2.5} emission factors in emission calculations, and to directly measure PM_{2.5} emissions, as applicable.

Additional Information: <http://www.epa.gov/nsr/actions.html#2010>